

MEETING RECORD

NAME OF GROUP: City Board of Zoning Appeals

DATE, TIME AND

PLACE OF MEETING:

Friday, February 22, 2002, 1:30 p.m., City Council Chambers,
County-City Building, 555 South 10th Street, Lincoln, Nebraska

MEMBERS AND OTHERS

IN ATTENDANCE:

Members: Gerry Krieser, Linda Wibbels, George Hancock,
Gene Carroll, and Tom Wanser

Others: Tonya Skinner (City Law Dept.), Terry Kathe
(Building & Safety), Jason Reynolds and Missy
Minner (Planning Dept.), applicants and other
interested parties.

STATED PURPOSE

OF THE MEETING:

Monthly Meeting of the City Board of Zoning Appeals

Chair Hancock called the meeting to order and requested a motion approving the minutes of the January 25, 2002 meeting. Motion for approval made by Wanser, seconded by Wibbels. Motion for approval carried 5-0; Wanser, Carroll, Krieser, Wibbels and Hancock voting 'yes'.

City Board of Zoning Appeals No. 2318

Requested by William Blake, on behalf of Mel Finke, for a variance to the front yard setback on property generally located at 820 Lakeside Drive.

PUBLIC HEARING

February 22, 2002

Bill Blake appeared on behalf of the property owners, Mel & Barb Finke. This property is located at the southwest corner of Capitol Beach on the water and is oriented with West Lakeshore Drive. The property is in a unique neighborhood and it is unique to the Capitol Beach area. The home has no basement. It is a two bedroom home with limited closet space and no storage.

This is a very small platted lot. The Planning Department exhibit shows three properties on Surfside and the property immediately south as being smaller than the subject property. The property shown 2 blocks away is 1400 sq. ft. larger than the Lakeside lot. The other 2 properties are both vacated ROW, they are not platted lots. The property immediately to the south is a little over 200 sq. ft. larger than 820 Lakeside. You must go 2 blocks to the north before you find properties that are smaller.

There is no where to build on the north side of the property. Approximately 10' were added to the property, that goes to just above the water. The Finke's have no back yard. If they want to update the house, they must go into the front yard. They have a huge front yard.

All of the homes in the area must pass by this property to get to O Street. They must negotiate what is probably the worst curb in Lincoln, particularly if there has been an ice storm. Mr. Finke can no longer park across the street on the grass. He would like to provide additional storage and garage space. He has no other alternative. The proposed addition is not harmful to anybody. This is smallest lot in the area with a huge front yard. The only other property that can claim to be similarly situated has a back yard.

They are asking for 17' variance. If you go up W Lakeshore, there is no standard setback, the most common setback is 20' from the curb. Some of the houses are set back no more than 8'. The Finke's currently have a 52' setback from the curb. With the variance, the setback will be over 30' from the curb. The Finkes are the first in line with any kind of significant setback. They have been given approval by their neighbors and the

Capitol Beach Homeowners Association. Hancock asked if there are any unusual covenants that would be found if the property was not on the lake. Blake indicated there are none that would relate to the front.

Mel Finke appeared. He indicated that the only thing he is aware of the Association asking about is docks and decks in the water. The reason for the addition is storage and additional garage space. There is no basement so all their storage, which is not adequate, is in the garage. His job requires him to have a third vehicle. He has two choices, move or build a third stall and a closet on the existing house. They like their house and would like to stay there. It is not safe for them to park on the street as it blocks the view of cars approaching around the curve.

If the Board is concerned about setting a precedent, his neighbor to the north added two stalls which gave him off street parking for six vehicles. The neighbor to the south has indicated that he has no intention of requesting a variance because his business is close to his home. No one else has his safety problems. The proposed addition would block no one's view. The addition will match the house and cure the traffic safety problem. They have lived in Lincoln all their lives.

Marc Wullschleger appeared. He is one of the neighbors and is still in support of the application. He believes the Finkes are handicapped due to the size of their lot. He has a rental property close by and can keep his extra vehicle at that property. This is not a pleasant area to live in because of being in the flood plain and the flight path and the railroads bother them. He is in favor of adding value to the property and has no intention of requesting a variance. The Finke's lot is the smallest in the area.

With no one further appearing, the public hearing was closed.

ACTION

February 22, 2002

Carroll moved approval, seconded by Wibbels.

Wibbels stated that her main reason for approval is in consideration of what has been done at Pier 1 where measuring of setbacks went to the water. This lot is no different than those lots. She also stated that a 4' x 5' closet was not sufficient for a woman.

Krieser was in favor of this because he knows of the traffic problem in the area and this lot has a lot of frontage.

Hancock pointed out that the Board can't grant a variance unless there is something unique and different. The traffic problem seems to be the best fit for that in this case.

Motion for approval carried 5-0; Carroll, Wibbels, Krieser, Wanser and Hancock voting 'yes'.

City Board of Zoning Appeals No. 2321

Requested by Mark Hunzeker for a variance to the front and side yard requirements on property generally located at 4231 Franklin Street.

PUBLIC HEARING

February 22, 2002

Hunzeker appeared on behalf of Kent Steele. By current garage standards, their garage is too small. They would like to add on to the existing garage on the front of their house. This would require extending into the front yard setback to 21' from the front property line. They are requesting a reduction from 25' to 21'. Their survey shows the existing side yard setback at 4.5' which they are requesting to keep to stay in line with the

house. There was a mistake made during the construction of the house that placed it at that point. He was not aware of any objections to the proposed project. This would be a reasonable use of the property. If they are not able to extend into the front yard setback, the garage would be too compressed. The roof line will be tied in and match the gable on the house. The proposed garage will be 24' deep.

Kent Steele appeared and explained that the fireplace in the living room protrudes into the existing garage.

Hunzeker clarified that technically the house is violation of the side yard setback. The side yard variance is needed to legalize what is already there and to be able to stay in line with the existing building.

Carroll asked about the possibility of building a garage that is 20' with one side being double deep. Steele explained that the existing garage is 22' deep. It is his intention to leave that door as it is now. That area of the garage would not very wide because of the fireplace that protrudes into it. Hunzeker indicated that there would be approximately 19.4' of usable space from the existing house to the outside wall. Speaking from experience, a 20' x 20' garage is barely adequate if you have a full size car.

Hunzeker added that the church is in the process of buying all the houses on 43rd, east of 42nd and Franklin as they come up for sale. They own virtually all the houses on 43rd Street and are basically providing for their own expansion. It is logical to assume that the buyer of any property not represented on the petition would be the church. They believe this is a reasonable use of the property and it does not violate the standards of the Board. They request approval of the application.

With no one further appearing, the public hearing was closed.

ACTION

February 22, 2002

Wibbels moved approval, seconded by Wanser.

Wibbels indicated that she is in favor of this application because the side yard setback variance will follow an existing line. The request will give them an appropriate amount of usable space. Her main reason for approval is that several other structures in the area are already lined up with that.

Carroll agreed that the side yard variance is appropriate to make things current. He does not favor the front yard variance because the applicant has the use of a garage now and could still have a 2 car garage on one side.

Motion for approval carried 3-2; Wibbels, Wanser and Krieser voting 'yes'; Hancock and Carroll voting 'no'.

City Board of Zoning Appeals No. 2322

Requested by Jeff Wismer, on behalf of Don Pegler, for a variance to the front yard setback on property generally located at 2601 S 24th Street.

PUBLIC HEARING

February 22, 2002

Jeff Wismer appeared on behalf of Don & Joann Pegler. The Pegler's would like to expand their single family dwelling to add on to their kitchen and make it more handicapped accessible. The Peglers have lived there since the 60s. He was hired to build the addition. This house was grand-fathered in 1953. According to the survey, it is a non-standard dwelling. The plat for Harrison Avenue contains no curve data, which is used in surveying. The point they want to expand the kitchen happens to be at the closest point to the street.

The neighbors are not opposed to the project. If the variance is approved, the overhead picture of the home won't change. No one will be affected by any site line change. Every cul-de-sac would face the same thing, but this is peculiar because the plat for the area has no curve data.

Billy Joe Kerr, K & M Surveying appeared. He indicated that he is familiar with this area because of the missing data. This area contains 50' lots with a 150' lot at the end. If you look at original plat, there is no curve data on record. They tried to reconstruct the plat as best as they could. It is not possible to get a conclusive answer as the data on the plat is incomplete.

Carroll asked about the possibility of limiting the variance to these specific design plans. Skinner indicated that could be done if they are able to specify the section being talked about. Carroll suggested that it could be limited to the drawings submitted at the meeting. Skinner indicated that the testimony from the meeting could be incorporated. She suggested that if the Board is leaning toward approval limiting the setback to that specific area, they table the appeal until they get a description of the area.

Wibbels stated that she is not in favor of limiting the variance because by granting the variance, you have already set the precedent. She would not want to limit the variance in case additional space is needed during construction.

With no one further appearing, the public hearing was closed.

ACTION

February 22, 2002

Wanser moved approval, seconded by Wibbels.

Wanser stated that his reason for moving approval is the Harrison Avenue question. This is grandfathered in, plus it is a typical corner lot. The properties to the west are zoned differently which allows this type of setback.

Wibbels indicated that her reasons include the inconclusive center line and the fact that the request does not extend beyond the furthest point of the existing structure.

Carroll indicated that he would like to make the variance specific to the drawings, but doesn't want the applicant to have to come back.

Hancock stated that the Board is being asking to approve a setback, not a set of plans. Passing the variance will change the setback across the property. That doesn't bother him in this case. He suggested that the possibility of making an application specific is something to think about in the future. That should be done only when there is a good reason to do so. There is not that good reason in this case.

Motion for approval carried 5-0; Wanser, Wibbels, Carroll, Krieser and Hancock voting 'yes'.

There being no further business, the meeting adjourned at 2:44 p.m.